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JB
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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

UNITED STATES OF AMERICA : DOCKET NO. 2:05 CR 20084-003

VS. : JUDGE MINALDI

GERARDO MENDEZ RAMOS, a/k/a : MAGISTRATE JUDGE WILSON
“TUTO”

MEMORANDUM RULING

Presently before the court are objections filed by the defendant, Gerardo Ramos (“Ramos”), to the Presentence Report (“PSR”) that has been prepared by the Probation Department.

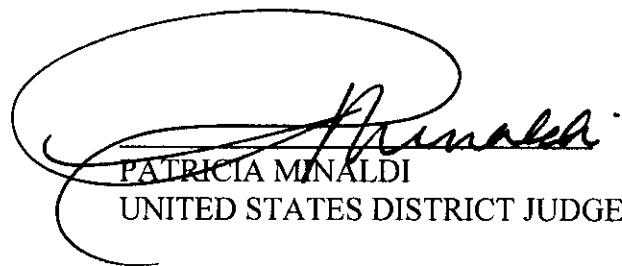
The defendant argues that his base offense level should be 36, instead of 38. The defendant stated that his co-defendants agreed to a factual basis of 100 kilograms of cocaine. He also stated, but introduced no evidence supporting his argument, that when asked in Court whether “that figure was accurate,” he agreed. The plea packet signed by the defendant and his counsel indicates that the defendant conspired to distribute over 150 kilograms of cocaine and 1,000 kilograms of marijuana. The offense level was correctly computed using these amounts.

The defendant also objects to ¶32 which assigns a two level enhancement. The defendant asserts that he was told that the two counts would be grouped and no additional time would be added by pleading to the money laundering count. He argues that the offense level for the underlying offense from which the laundered funds were derived cannot be fairly determined, but should be less than 36 in any event, therefore the two level enhancement should be removed.

U.S.S.G. § 3D1.2 states that all counts involving substantially the same harm shall be

grouped together in a single count. In this case, Counts 1 and 3 were grouped. §3D1.3(b) states that, in determining the offense level applicable to each group, when there are counts involving offenses of the same general type to which different guidelines apply, the offense guideline which produces the highest offense level is to be used. The underlying offense is Conspiracy to Distribute at least 150 kilograms of cocaine and 1,000 kilograms of marijuana, for an adjusted base offense level of 36. After applying the base offense level and all specific offense characteristics to Count 3, the adjusted base offense level was correctly computed as 38. Accordingly, the defendant's objections are overruled.

Lake Charles, Louisiana, this 6 day of June, 2007.



PATRICIA MINALDI
UNITED STATES DISTRICT JUDGE